

Part 5

Death Benefit

49-23-501 Death benefit -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.

- (1) The office shall provide a death benefit for members of this system.
- (2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:
 - (a) benefit levels;
 - (b) classes of members; and
 - (c) a living benefit option.
- (3) This death benefit is payable when:
 - (a) the member dies prior to the member's retirement date or dies under circumstances which Subsection 49-23-304(4) requires to be treated as the death of a member before retirement;
 - (b) the office receives acceptable proof of death; and
 - (c) benefits are not payable under Section 49-23-306.
- (4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:
 - (a) the return of any member contributions under this chapter; plus
 - (b) a percentage of the final average salary of the member to be determined by the board.
- (5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.
- (6) The cost of the death benefit shall be paid by the participating employer in addition to the contribution rate established under Section 49-23-301 or 49-23-401.
- (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless the death of the member occurs either:
 - (a) within a period of 120 days after the last day of work for which the person received compensation; or
 - (b) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.
- (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.
- (9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.
- (10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.
- (11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.
- (12) A death benefit under this section may not be paid on behalf of a retiree under this system.

Amended by Chapter 316, 2013 General Session

49-23-502 Death of married members -- Service retirement benefits to surviving spouse.

- (1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-23-304 without an actuarial reduction.
- (2) Upon the request of a deceased member's surviving spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:
 - (a) the member has:
 - (i) 15 or more years of service credit;
 - (ii) attained age 62 with 10 or more years of service credit; or
 - (iii) attained age 65 with four or more years of service credit; and
 - (b) the member dies leaving a surviving spouse.
- (3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:
 - (a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or
 - (b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.
- (4) The allowance payable to a surviving spouse under Subsection (2) is:
 - (a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;
 - (b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;
 - (c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or
 - (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.
- (5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.
- (6) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-23-501 and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.
- (7) If the death benefits under this section or Section 49-23-503 are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Amended by Chapter 84, 2016 General Session

49-23-503 Death of active member in line of duty -- Payment of benefits.

If an active member of this system dies, benefits are payable as follows:

- (1) If the death is classified by the office as a line-of-duty death, benefits are payable as follows:
 - (a) If the member has accrued less than 20 years of public safety service or firefighter service credit, the surviving spouse shall receive a lump sum equal to six months of the active

member's final average salary and an allowance equal to 30% of the member's final average monthly salary.

- (b) If the member has accrued 20 or more years of public safety service or firefighter service credit, the member shall be considered to have retired with an Option One allowance calculated without an actuarial reduction under Section 49-23-304 and the surviving spouse shall receive the allowance that would have been payable to the member.

(2)

- (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this section if the death results from external force, violence, or disease directly resulting from firefighter service.
- (b) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.
- (c) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-23-102(13) to determine the eligibility for this benefit.

(3)

- (a) If the death is classified as a line-of-duty death by the office, death benefits are payable under this section and the surviving spouse is not eligible for benefits under Section 49-23-502.
- (b) If the death is not classified as a line-of-duty death by the office, benefits are payable in accordance with Section 49-23-502.

(4)

- (a) A surviving spouse who qualifies for a monthly benefit under this section shall apply in writing to the office.
- (b) The allowance shall begin on the first day of the month following the month in which the:
 - (i) member or participant died, if the application is received by the office within 90 days of the date of death of the member or participant; or
 - (ii) application is received by the office, if the application is received by the office more than 90 days after the date of death of the member or participant.

Amended by Chapter 84, 2016 General Session

49-23-504 Death of members -- Exemption from vesting requirements for employer nonelective contributions to defined contribution plan.

(1)

- (a) If an active member dies, employer nonelective contributions made on behalf of the employee to a defined contribution plan under Section 49-23-302 or 49-23-401 are exempt from the vesting requirements of Subsections 49-23-302(2)(a) and 49-23-401(3)(a).
- (b) The total amount of nonelective contributions made by the participating employer vests to the member upon death and the member's beneficiary is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses.

- (2) Employer contributions vested and distributed under this section are in addition to and separate from the benefits payable under Sections 49-23-501, 49-23-502, and 49-23-503.

Enacted by Chapter 315, 2015 General Session